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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/211,268	12/14/1998	JUNJI KOBAYASHI	B208-1002	7286

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EXAMINER

GENCO, BRIAN C

ART UNIT	PAPER NUMBER
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2615

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/211,268	<b>Applicant(s)</b> KOBAYASHI ET AL.	
	<b>Examiner</b> Brian C. Genco	<b>Art Unit</b> 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-21, 27, 31, 36-39 and 42-57 is/are pending in the application.
- 4a) Of the above claim(s) 13-20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-12 and 21 is/are allowed.
- 6) ☒ Claim(s) 27, 31, 36-39 and 42-57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

Applicant's amendment filed March 21, 2005 has overcome the 35 USC 112, first paragraph rejection presented previously.

Claims 1-12 and 21 still stand allowable over the prior art of record.

Applicant's arguments filed April 11, 2005 have been fully considered but they are not persuasive.

Applicant argues that as illustrated in Fig. 5 of Kamamoto when the display is rotated upwards it is not a rotation "so that said display part moves towards an upper side in said first operation face".

In response, Examiner respectfully disagrees. Examiner notes that Merriam Webster's Collegiate Dictionary defines the word toward as "in such a position as to be in the direction of". As such, when Kamamoto rotates the display upwards it does move the display part around a first shaft so that said display part moves (in such a position as to be in the direction of) an upper side in said image pickup apparatus. Further, Examiner notes that as shown in Figs. 2 and 5 at least the bottom of the display part as illustrated is moved toward an upper side of the camera when the display is rotated so as to point upwards.

Examiner notes Applicant's arguments that the rotation is such that the display part body remains at the same spacing from the face of the side face of the camera body, however, this limitation is not claimed. The claims merely limit that the display part moves towards an upper side, and does not further limit the claims to indicate that the display part moves away from the

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side face of the camera body. Examiner notes that should Applicant add this limitation to the claims it would appear to overcome the art of record.

Applicant argues that while the display part of Kamamoto “appears able to rotate so that it is faces upward, this is not believed to be a position in which the camera user when using the camera is able to view the display”.

In response, Examiner notes that Applicant’s arguments and subjective belief cannot take the place of objective fact. See MPEP 716.01(c)(II). Also note *In re Schulze*, 346 F.2d 600, 602, 145 USPQ 716, 718 (CCPA 1965). Examiner notes that Kamamoto discloses to rotate the display part so that it faces upward so as to enable the taking of low angle shots (e.g., column 3, lines 11-19; column 12, lines 61-67).

Applicant is advised that should claims 44, 27, 45, 31, 36, 37, 42, 38, 39, and 43 be found allowable, claims 46-50 and 52-57 respectively will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 36 are rejected under 35 U.S.C. 102(e) as being anticipated by (USPN 5,932,429 to Kamamoto et al.).

In regards to claim 36 Kamamoto discloses an image pickup apparatus including a lens portion for converging an object image comprising:

a display part including a display face for displaying a picked-up image (e.g., element 7 of Fig. 2), wherein said display part is surrounded by a first side, second side, third side, and fourth side, wherein said first side and said second side face each other, and said third side and said fourth side face each other, wherein a length between said first side and said second side is longer than a length between said third side and said fourth side, wherein said first side and said second side is shorter than said third side and said fourth side (e.g., the first side is the left side of the display element 7, the second side is the right side of the display element 7, the third side is the bottom of the display element 7, and the fourth side is the top of display element 7 as depicted in Fig. 2);

a body including a first face, said first face is surrounded by a fifth side, sixth side, seventh side, and eighth side, wherein said fifth side and said sixth side face each other, and said seventh side and said eighth side face each other, wherein a length between said fifth side and said sixth side is longer than a length between said seventh side and said eighth side, wherein said fifth side and said sixth side is shorter than said seventh side and said eighth side (e.g., the fifth side is the right side of the camera body element 2, the sixth side is the left side of the camera body element 2, the seventh side is the top of the camera body element 2 and the eighth side is the bottom of the camera body element 2 as depicted in Fig. 5);

a moving member for moving said display part to a first position in which said display part makes the picked-up image viewable, and a second position in which said display part is stowed in the image pickup apparatus body (e.g., opening/closing device element 12 of Fig. 2 is the moving member wherein the display part can be moved as shown in Figs. 2-5);

wherein when said moving member includes a first moving member and a second moving member, said first moving member (e.g., element 31 of Fig. 11) enables said display part to rotate around a first shaft so that said display part moves toward an upper side in said first operation face (e.g., the first shaft is elements 29 and 30 of Fig. 6 and 11; see Figs. 2-5 wherein as shown in Fig. 5 wherein said display part is move toward an upper side face in said first operation face, namely rotated upward), and said second moving member (e.g., element 19 of Fig. 6) enables said display part to rotate around a second shaft substantially perpendicular to said first shaft (e.g., element 16 of Fig. 7)

wherein when said display part is in the first position, third direction of said display part substantially coincides with second direction of said body, and when said display part is in the second position, first direction of said display part substantially coincides with second direction of said body (e.g., see Figs. 2 and 5; when the display is rotated so as to be pointing up in the first position the third direction coincides with the second direction and when the display is in the second position as shown in Fig. 3 the first direction coincides with the second direction).

wherein said first direction is a direction which goes to said second side from said first side, said second direction is a direction which goes to said sixth side from said fifth side, and said third direction is a direction which goes to said fourth side from said third side (e.g., see Figs. 2 and 5).

In regards to claim 37 Yamano discloses an image pickup apparatus according to claim 36, further comprising:

an operation member located on a second operation face of said body wherein said operation member is used when picking up image, and said second face adjoins said first operation face and is exposed outside regardless of the position of said display part (e.g., zoom control buttons 10 depicted in Fig. 1).

In regards to claim 38 and 39 see Examiner's notes on the rejections of claims 36 and 37 respectively. Note that as shown in Fig. 2 Kamamoto discloses that the first face of the body is an operation face having an operation member operated by an operator who uses said image pickup apparatus.

In regards to claim 42 Kamamoto discloses a viewfinder 6 as shown in Fig. 2 which inherently includes a lens for converging an object image, namely for converging the object displayed by the electronic viewfinder to the observer's eye. Examiner notes that this lens is in a face that adjoins said first face and includes said seventh side as depicted in Fig. 2.

In regards to claim 43 see Examiner's notes on the rejections of claim 42.

In regards to claim 44 Kamamoto discloses an image pickup apparatus including a lens portion for converging an object image comprising:

a display part including a display face for displaying a picked-up image (e.g., element 7 of Fig. 2);

a body including a first operation face having a first operation member operated by an operator who uses said image pickup apparatus (e.g., the camera body depicted in Fig. 2 wherein

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the first operation face is the face depicted in Fig. 5 and the first operation member is elements 28-41);

a moving member for moving said display part to a first position in which said display part makes the picked-up image viewable, and a second position in which said display part is stowed in the image pickup apparatus body (e.g., opening/closing device element 12 of Fig. 2 is the moving member wherein the display part can be moved as shown in Figs. 2-5);

wherein when said moving member includes a first moving member and a second moving member, said first moving member (e.g., element 31 of Fig. 11) enables said display part to rotate around a first shaft so that said display part moves toward an upper side in said first operation face (e.g., the first shaft is elements 29 and 30 of Fig. 6 and 11; see Figs. 2-5 wherein as shown in Fig. 5 wherein said display part is move toward an upper side face in said first operation face, namely rotated upward), and said second moving member (e.g., element 19 of Fig. 6) enables said display part to rotate around a second shaft substantially perpendicular to said first shaft (e.g., element 16 of Fig. 7).

wherein when said display part is in the second position, a major-side direction of said display part substantially coincides with a major-side direction of said body, and when said display part is in the first position, a minor-side direction of said display part substantially coincides with a major-side direction of said body (e.g., see Figs. 2-5).

In regards to claim 27 see Examiner's notes on the rejections of claim 37.

In regards to claims 31 and 45 see Examiner's notes on the rejections of claims 37 and 44 respectively.



In regards to claims 46-48 see Examiners notes on the rejections of claims 44, 27, and 42 respectively.

In regards to claims 49-51 see Examiners notes on the rejections of claims 45, 31, and 42 respectively.

In regards to claims 52-54 see Examiners notes on the rejections of claims 36, 37, and 42 respectively.

In regards to claims 55-57 see Examiners notes on the rejections of claims 38, 39, and 43 respectively.

### *Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian C. Genco who can be reached by phone at 571-272-7364 or by fax at 571-273-7364. The examiner can normally be reached on Monday thru Friday 8:30am to 4:30 pm.

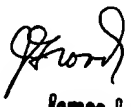
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached at 571-272-7950. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service office whose telephone number is 571-272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Brian C Genco  
Examiner  
Art Unit 2615

May 17, 2005

  
James J. Groody  
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Art Unit 262 2615